

ADRIENNE C. PUBLICOVER (SBN 161432)
MICHAEL K. BRISBIN (SBN 169495)
WILSON, ELSER, MOSKOWITZ,
EDELMAN& DICKER LLP
525 Market Street, 17th Floor
San Francisco, CA 94105
Telephone: (415) 433-0990
Facsimile: (415) 434-1370

Attorneys for Plaintiff
PRINCIPAL LIFE INSURANCE COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

PRINCIPAL LIFE INSURANCE
COMPANY,

Plaintiff,

v.

VINA CUESTA STATUA, INOCENCIO S.
AMBE, CORAZON AMBE CABALES,
ESTELA D. REED, and DOES 1-10,

Defendants.

Case No. C07-04915 (CW)

**PLAINTIFF PRINCIPAL LIFE
INSURANCE COMPANY’S REQUEST TO
ENTER THE DEFAULT OF DEFENDANT
INOCENCIO AMBE**

[F.R.C.P. 55(a)]

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION:**

Plaintiff PRINCIPAL LIFE INSURANCE COMPANY (“PRINCIPAL LIFE”) requests the Clerk of this Court enter the default of Defendant INOCENCIO S. AMBE (“AMBE”) for his failure to plead or otherwise defend himself in a timely manner, as provided for by Rule 55(a) of the Federal Rules of Civil Procedure.

This request is based on the attached Declaration of Michael K. Brisbin, which shows the following:

1. On September 21, 2007 Plaintiff PRINCIPAL LIFE filed its Complaint in Interpleader and for Declaratory Relief against Defendants VINA CUESTA STATUA,

1 INOCENCIO S. AMBE, CORZAON AMBE CABALES, ESTELA D. REED, and DOES 1-10.
2 A true and correct copy of the Complaint is attached to the Declaration of Michael Brisbin
3 ("Brisbin Declaration") as **Exhibit A**.

4 2. All other required Court documents were also filed on September 21, 2007.

5 3. On October 4, 2007 Michael Brisbin, counsel for PRINCIPAL LIFE, caused to
6 be served upon each of the Defendants, either individually or through their attorneys, the
7 Complaint, Notice of Lawsuit, Waiver of Service of Summons, Notice of Assignment,
8 Summons, Notice of Deposit, Notice of Interested Parties, Clerk's receipt for interpled monies,
9 and all other Court issued documents. The filed Proof of Service revealing service by U.S.
10 postal mail on October 4, 2007, is attached to the Brisbin Declaration as **Exhibit B**.

11 4. After serving the documents listed in paragraph 4 on Defendant AMBE, through
12 his then potential counsel, Marc Cardinal, none of the documents were returned due to a wrong
13 address, documents undeliverable, moved, does not reside here, or for any other reason.

14 5. Counsel for PRINCIPAL LIFE received a telephone call from Marc Cardinal, in
15 early December 2007, stating he would not be representing AMBE and requesting service be
16 directed to him in the Philippines.

17 6. After hearing from Marc Cardinal about his representation of Defendant AMBE,
18 and having not received a returned waiver of service of summons from AMBE, counsel for
19 PRINCIPAL LIFE caused Defendant AMBE to be served with the documents previously sent,
20 via Federal Express.

21 7. Counsel for PRINCIPAL LIFE completed service on Defendant AMBE by
22 Federal Express on December 22, 2007. Said service, in accordance with FRCP 4 (f), was
23 accomplished by using any form of mail that the clerk addresses and sends to the individual and
24 that requires a signed receipt. This form of service is not prohibited by Philippine law.
25 PRINCIPAL LIFE filed the Proof of Service with the Court on January 31, 2008; confirming
26 service of Defendant AMBE by Federal Express. A true and correct copy of the Proof of
27 Service is attached to the Brisbin Declaration as **Exhibit C**.

1 8. Under FRCP 12 (a)(1)(A)(i) Defendant AMBE had only 20 days from service on
2 December 22, 2007 to file a responsive pleading because Defendant AMBE failed to return the
3 Waiver of Service of Summons.

4 9. Defendant AMBE failed to file any responsive pleading or any other document
5 by the January 11, 2008 deadline, signaling his intent to make an appearance at any time during
6 this litigation.

7 10. As of March 17, 2008 Defendant AMBE still has failed to file a responsive
8 pleading, seek an extension, request a dismissal, or make an appearance with the Court, despite
9 additional time for doing so.

10 11. Thus, Defendant AMBE has failed to plead or otherwise respond to Plaintiff
11 PRINCIPAL LIFE'S Complaint filed on September 21, 2007.

12 12. The applicable time limit for Defendant AMBE to file a responsive pleading has
13 expired.

14 13. Defendant AMBE is not an infant, as his date of birth is December 28, 1948, he is
15 not incompetent, and not in the military service. Attached to the Brisbin Declaration as **Exhibit**
16 **D** is a true and correct copy of the beneficiary statement completed by Defendant AMBE.

17
18 Date: March 17, 2008

19 WILSON, ELSER, MOSKOWITZ, EDELMAN &
20 DICKER LLP

21 By: 

22 Adrienne C. Publicover

23 Michael K. Brisbin

24 Attorneys for Plaintiff

25 **PRINCIPAL LIFE INSURANCE COMPANY**

PROOF OF SERVICE

I am a citizen of the United States, I am over the age of eighteen years and am not a party to the within cause. I am employed in the City and County of San Francisco, California and my business address is 525 Market Street, 17th Floor, San Francisco, California 94105.

On this date I served the following document(s).

1. **PLAINTIFF PRINCIPAL LIFE INSURANCE COMPANY'S REQUEST TO ENTER THE DEFAULT OF DEFENDANT INOCENCIO AMBE; and**
2. **DECLARATION OF MICHAEL BRISBIN IN SUPPORT OF PLAINTIFF PRINCIPAL LIFE INSURANCE COMPANY'S REQUEST TO ENTER THE DEFAULT OF DEFENDANT INOCENCIO AMBE**

on the party(ies) identified below, and/or through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below by the following means of service:

XX: By First Class Mail -- I caused each such envelope, with first class postage thereon fully prepaid, to be deposited in a recognized place of deposit of the U.S. Mail in San Francisco, California, for collection to the office of the addressee following ordinary business practices.

Corazon Ambe Cabales
462 37th Street
Oakland, CA 94609
Defendant

XX: By Overnight Courier -- I caused each such envelope to be given to an overnight mail service at San Francisco, California, to be hand delivered to the office of the addressee on the next business day.

Inocencio S. Ambe
907 Paroba Street
Santa Maria, Sta. Ana
2022 Pampanga, Philippines
Defendant

XX: Per order of the Court I caused service to be accomplished on all parties through **CM/ECF File and Serve** for the Northern District of California:

Marc Joseph Cardinal mjc@devrieslawgroup.com

Montie S. Day Oyad@aol.com

Daniel J. De Vries DJDV@DeVriesLawGroup.com, cbj@devrieslawgroup.com,
jma@devrieslawgroup.com

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct to the best of my knowledge.

3 EXECUTED **March 17, 2008**, at San Francisco, California.

4 
5 Joya Yeung